

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Circuit Mediation Office

Phone (415) 355-7900 Fax (415) 355-8566

<http://www.ca9.uscourts.gov/mediation>

**MEDIATION QUESTIONNAIRE**

The purpose of this questionnaire is to help the court's mediators provide the best possible mediation service in this case; it serves no other function. Responses to this questionnaire are **not** confidential. Appellants/Petitioners must electronically file this document within 7 days of the docketing of the case. 9th Cir. R. 3-4 and 15-2. Appellees/Respondents may file the questionnaire, but are not required to do so.

9th Circuit Case Number(s): 15-16501

District Court/Agency Case Number(s): 2:14-cv-02626-TLN-DAD

District Court/Agency Location: E.D. Cal.

Case Name: Tracy Rifle and Pistol LLC, et al. v. Kamala Harris, et al.

If District Court, docket entry number(s) of order(s) appealed from: 32

Name of party/parties submitting this form: Appellants Tracy Rifle and Pistol LLC, et al.

Please briefly describe the dispute that gave rise to this lawsuit.

Plaintiff firearms dealers challenge the constitutionality of California Penal Code section 26820, which prevents a firearms dealer from displaying any "handgun or imitation handgun, or [a] placard advertising the sale or other transfer thereof" anywhere that can be seen from the outside of a firearms dealership. Specifically, Plaintiffs contend that Section 26820 violates the First Amendment.

Briefly describe the result below and the main issues on appeal.

This is a preliminary injunction appeal. The main issue is whether the District Court abused its discretion by denying Plaintiffs' motion for preliminary injunction despite finding that Plaintiffs are likely to succeed on the merits because Section 26820 likely violates the First Amendment.

Describe any proceedings remaining below or any related proceedings in other tribunals.

The parties are proceeding with discovery below.

Provide any other thoughts you would like to bring to the attention of the mediator.

The parties do not believe there is any prospect of settlement. Because the case involves the constitutionality of a state statute, mediation would not be appropriate.

Any party may provide additional information *in confidence* directly to the Circuit Mediation Office at [ca09\\_mediation@ca9.uscourts.gov](mailto:ca09_mediation@ca9.uscourts.gov). Please provide the case name and Ninth Circuit case number in your message. Additional information might include interest in including this case in the mediation program, the case's settlement history, issues beyond the litigation that the parties might address in a settlement context, or future events that might affect the parties' willingness or ability to mediate the case.

## CERTIFICATION OF COUNSEL

I certify that:

a current service list with telephone and fax numbers and email addresses is attached  
 (see 9th Circuit Rule 3-2).

I understand that failure to provide the Court with a completed form and service list  
 may result in sanctions, including dismissal of the appeal.

Signature s/Stephen M. Duvernay

("s/" plus attorney name may be used in lieu of a manual signature on electronically-filed documents.)

Counsel for Appellants Tracy Rifle and Pistol LLC, et al.

**Note:** Use of the Appellate ECF system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the system. To file this form electronically in Appellate ECF, complete the form, and then print the filled-in form to PDF (File > Print > PDF Printer/Creator). Then log into Appellate ECF and choose Forms/Notices/Disclosure > File a Mediation Questionnaire.